

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 507(c)
Title 14, California Code of Regulations
Re: Prohibition on Electronic or Mechanically-operated Devices

I. Date of Initial Statement of Reasons: May 20, 2002

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: | June 20, 2002 |
| | | Location: | South Lake Tahoe, California |
| (b) | Discussion Hearing: | Date: | August 2, 2002 |
| | | Location: | San Luis Obispo, California |
| (c) | Adoption Hearing: | Date: | August 30, 2002 |
| | | Location: | Oakland, California |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The existing regulation 507(c), Title 14 California Code of Regulations (CCR) prohibits the use of electronic or mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of the waterfowl season and December 1. Existing regulation in Section 1.41 Title 14 CCR specifies that dates of seasons and closures are inclusive. The proposed change would clarify the intent of section 507(c) to prohibit the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl prior to December. The proposed clarification would specify that the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl would be prohibited prior through November 30.

In recent years, spinning wing decoys have been increasingly used for waterfowl hunting in California. Preliminary evidence indicates that this device may have increased harvest on mallards that are hatched in California to a level that may reduce the population beyond the normal annual variation in population size. The regulation was proposed and enacted as an additional means to measure the possible effect of mechanically operated spinning blade devices or spinning wing decoys on the harvest of local mallard populations.

Over the last three hunting seasons, the Department has sampled more than 13,000 hunter days on the public hunting areas and found that hunters that use spinning wing decoys harvested more birds than hunters

using traditional methods. A more rigorous study by the University of California, Davis also indicated an increase in harvest, particularly early in the season when hunters that used a spinning wing decoy shot nearly 7 times more ducks than when the same hunters did not use the device. Early season mallard harvest is comprised primarily of birds from California. Analysis of banding data from 2000-01 (the most recent year of information available at that time) indicated an increase in harvest of mallards banded in California. Despite these results, overall duck harvests declined in recent years due to most likely to weather conditions that do not favor harvest. The estimate of the mallard breeding population in California in 2001 declined, although it was higher than the 1998 estimate. Analyses of the effect of the regulation are intended to occur over a period of years, and the proposed change is intended to clarify the regulation and to comply with existing sections.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 355, 356 Fish and Game Code.

Reference: Sections 355, 356, and 3005 Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

2002 Draft Environmental Document Migratory Game Bird Hunting.

- (e) Public Discussions of Proposed Regulations Prior to Notice publication:

Because the regulation changes proposed for this section are not complex, no public meetings are being held prior to the notice publication.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

1. Amend the regulation to prohibit the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of the waterfowl season and the Saturday closest to December 1.

- (b) No Change Alternative:

The No Change Alternative would continue a regulation that would allow the use of spinning blade devices or spinning wing decoys beginning on December 2. This is an unusual date for regulation changes and difficult to remember.

- (c) Consideration of Alternatives:

1. In view of information currently possessed, no reasonable alternative

considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation(s) are intended to provide additional recreational opportunity to the public. Our experience has shown that additional recreational opportunity has a neutral economic impact on business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

Existing regulation in Section 507(c), Title 14 California Code of Regulations (CCR) prohibits the use of electronic or mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of the waterfowl season and December 1. Existing regulation in Section 1.41 Title 14 CCR specifies that dates of seasons and closures are inclusive. The proposed change would clarify the intent of section 507(c) to prohibit the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl prior to December. The proposed clarification would specify that the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl would be prohibited through November 30.